IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No. 5196 of 2006
Date of decision : 2.11.2006.

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Parties Name

M/s. Chandan Rice Mills

..... Petitioner

vs.

The Punjab State Co-operative Supply and Marketing Federation Limited and another

..... Respondents

Coram: Hon'ble Mr. Justice S.N. Aggarwal

Present: Sh. S.P. Garg, Advocate
for the petitioner.

Sh. Anshul Rishi, Advocate
for the respondents.

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S.N. Aggarwal, J.

There was a contract between the petitioner-M/s. Chandan Rice Mills (in short 'the Mill') and the Punjab State Co-operative Supply and Marketing Federation Limited (in short 'the Markfed')-respondents. The matter was referred to the arbitrator. The arbitrator had passed the award. The said award was challenged by the petitioner by filing objections under Section 34 of the Arbitration and Conciliation Act, 1996 (in short 'the AC Act, 1996'). The said objection were accepted by the Court of Additional District Judge,

Chandigarh vide order dated 9.4.2005. The petitioner filed the appeal (FAO No. 4519 of 2005) against this order, which was dismissed by this Court vide order dated 28.3.2006.

Thereafter, the respondents filed an application before the Additional District Judge, Chandigarh for extension of time. The said application was accepted by the learned Additional District Judge, Chandigarh vide order dated 6.5.2006 and the Managing Director, Markfed was granted two month's time in terms of the order dated 9.4.2005.

Hence, the present revision petition.

Before we proceed further, it may be noticed that the learned Additional District Judge, Chandigarh, while accepting the objections under Section 34 of the AC Act, 1996 had held as under :-

> "Resultantly the petition succeeds and is allowed setting aside the impugned award dated 5.9.2003. HOWEVER still, since the award has been set aside only on the ground that the Arbitrator lacked the jurisdiction to adjudicate upon certain matters as those matters ought to have been decided by Managing Director of MARKFED and as this judgment is not intended to exonerate the objection petitioner of its liabilities arising out of the agreement, if any, the managing Director MARKFED would be competent to decide the matter afresh, as much as it falls within his ambit in terms of Clause 7 of the agreement and the period spent in Arbitration and in these proceedings be excluded for the purposes of

limitation. In any case the Managing Director would be required to initiate his action within 3 months from today. No order as to costs. File be consigned to record after due compilation. Announced in open Court on April 9th 2005."

The order reveals that although the award was set aside but the Managing Director was directed to initiate his action within three months from that date.

The submission of the learned counsel for the petitioner was that the learned Additional District Judge, Chandigarh has no jurisdiction to grant extension of time to the respondents. The first submission was that the order passed by the learned Additional District Judge, Chandigarh on 9.4.2005 was challenged in FAO No. 4519 of 2005 which was disposed of by this Court vide order dated 28.3.2006 and the revision petition was dismissed. It was submitted that the order passed by the learned Additional District Judge on 9.4.2005 had merged in the order passed by this Court on 28.3.2006 and therefore, the application for extension of time was not maintainable in the Court of learned Additional District Judge.

This submission has been considered. It has no merits at all. The order passed by this Court on 28.3.2006 only reveals that the order was upheld. But since the learned trial Court had granted the time to the Managing Director, Markfed, for initiating action within three months from that date, therefore, only that Court had the jurisdiction to extend the time. The said Court had passed the order on the application for extension of time in accordance with law and

therefore, there is no legal infirmity on that account.

The next submission of the learned counsel for the petitioner was that limitation cannot be condoned by the said Court.

This submission is of no consequence. It was the question of grant of extension of time by the Court to a party involved in the litigation, which was determined by that Court vide order dated 6.5.2006. The Court has given brief reasons for accepting said application and extending the time. Therefore, the question of limitation was not available to the petitioner, so far as the order dated 6.5.2006 is concerned.

The next submission of the learned counsel for the petitioner was that originally the respondents had lodged the claim for Rs.7.5 lacs but now under the revised claim, the respondents have increased the same to Rs.1,30,00,000/- However, the petitioner would be at liberty to raise objections before the proper forum, which will be dealt with by the arbitrator in accordance with law.

There is no merit in the present revision petition and the same is dismissed.

(S.N.Aggarwal)
Judge

2.11.2006.
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